

NOV 12 2010

Attorney Docket No.: 037003-0275716

RECEIVED

NOV 19 2010

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION OF

Confirmation No.: 7181

Darrell R. ANDERSON et al.

Group Art Unit: 1644

Application No. 09/383,916

Examiner: Phillip Gambel

Filed: August 26, 1999

Patent No. 6,709,654

Issued: March 23, 2004

OFFICE OF PETITIONS

2010 NOV 16 PM 4:25

Title: TREATMENT OF PSORIASIS USING ANTI-B7.1 (CD80) ANTIBODIES

NOTICE OF LOSS OF ENTITLEMENT TO CLAIM SMALL ENTITY STATUS

and

PETITION UNDER 37 C.F.R. §1.28(c) TO EXCUSE ERRORS IN SMALL ENTITY
STATUS AND ACCEPT PAYMENT OF DEFICIENCY OWED

Mail Stop PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a petition under 37 C.F.R. §1.28(c) to excuse an error in payment of maintenance fees as a small entity and accept payment of fees as a large entity for the above-identified patent.

Pursuant to 37 C.F.R. §1.28(d), any deficiency payment (based on a previous erroneous payment of a small entity fee) submitted under 37 C.F.R. §1.28(c) will be treated under 37 C.F.R. § 1.27(g)(2) as a notification of a loss of entitlement to small entity status. By submitting the present petition under 37 C.F.R. §1.28(c), the patent owner, through the undersigned, hereby gives notice under 37 C.F.R. § 1.27(g) to the United States Patent and Trademark Office ("Office") that they are no longer entitled to claim small entity status.

11/18/2010 DALLEN 00000002 033975 6709654
01 FC:1599 530.00 DA

601310746v1

Attorney Docket No. 037003-0275716

37 C.F.R. §1.28(c) establishes how errors in small entity status are excused. If status as a small entity is established in good faith, and fees as a small entity are paid in good faith, in any application or patent, and it is later discovered that through error the Office was not notified of a loss of entitlement to small entity status as required by 37 C.F.R. §1.27(g)(2), the error will be excused upon compliance with the separate submission and itemization requirements of 37 C.F.R. §1.28(c)(1) and 37 C.F.R. §1.28(c)(c)(2), and the deficiency payment requirement of 37 C.F.R. §1.28(c)(2).

U.S. Patent Application No. 09/383,916 was filed on August 26, 2000, as a division of US Patent Application No. 08/487,550, with a copy of the statement claiming small entity status that was previously filed in US Patent Application No. 08/487,550 on June 7, 1995, and the filing fee was paid at the small entity rate. Beginning with the Reply Pursuant to 37 C.F.R. §1.116 filed on January 10, 2002, fees during prosecution of U.S. Patent Application No. 09/383,916 were thereafter paid at the large entity rate. The issue fee was paid at the large entity rate with small entity status disclaimed on the Fee Transmittal form PTOL-85 filed on August 15, 2003. However, it has come to our attention that the Office was not notified of a loss of entitlement to small entity status during prosecution, as required by 37 C.F.R. § 1.27(g)(2). The first maintenance fee (3.5 yrs) for U.S. Patent No. 6,709,654 was paid at the small entity rate on September 24, 2007.

In accordance with 37 C.F.R. §1.28(c)(1), the present paper is limited to the deficiency payment required by paragraph 37 C.F.R. §1.28 (c)(2), for U.S. Patent Application No. 09/383,916, now U.S. Patent No. 6,709,654.

In accordance with 37 C.F.R. §1.28(c)(2), the deficiency owed, resulting from the previous erroneous payment of small entity fees, based on calculations required under 37 C.F.R. §1.28(c)(2)(i), as supported by the itemizations required under 37 C.F.R. §1.28(c)(2)(ii), is hereby paid.

The deficiency owed is calculated in accordance 37 C.F.R. §1.28(c)(2)(i), where the deficiency owed for each previous fee erroneously paid as a small entity is the difference between the current fee amount (for other than a small entity) on the date the deficiency is paid in full and the amount of the previous erroneous (small entity) fee payment, as shown in the following itemization in accordance with 37 C.F.R. §1.28(c)(2)(ii):

NOV 12 2010

Attorney Docket No. 037003-0275716

§1.28(c)(2)(ii)(A)	Type of fee erroneously paid:	Maintenance Fee (3.5 years)
§1.28(c)(2)(ii)(B)	Small entity fee actually paid:	\$450.00
	Date small entity fee was paid:	September 24, 2007
§1.28(c)(2)(ii)(C)	Deficiency owed = large entity fees currently due – fees paid	
	Current 3.5 year large entity fee:	\$980
	Deficiency amount owed:	\$980 - \$450 = \$530
§1.28(c)(2)(ii)(D)	Total deficiency payment owed:	\$530

Payment in the amount of \$530 is enclosed. The Commissioner for Patents is authorized to charge any additional fees, credit any overpayments, to Deposit Account Number 033975.

Should the Deciding Official have any questions or comments regarding this matter, the undersigned may be contacted at the telephone number listed below.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN LLP

By: _____

Donna O. Perdue, Ph.D., J.D.

Registration No. 51,166

Tel. 858.509.4093

Fax 858.509.4010

Date: November 12, 2010